

**IT IS THE VENDOR'S RESPONSIBILITY TO CHECK FOR
ADDENDUMS PRIOR TO SUBMITTING PROPOSALS**

**NOTICE TO BIDDERS
SPECIFICATION NO. 04-010**

The City of Lincoln, Nebraska intends to purchase and invites you to submit a sealed bid for:

**LEASE OF GAS POWER MOTORIZED GOLF CARS
AND
GAS POWER MOTORIZED UTILITY VEHICLES**

Sealed bids will be received by the City of Lincoln, Nebraska on or before 12:00 noon Wednesday, January 14, 2004 in the office of the Purchasing Agent, Suite 200, K Street Complex, Southwest Wing, 440 South 8th Street, Lincoln, Nebraska 68508. Bids will be publicly opened and read at the K Street Complex.

Bidders should take caution if U.S. mail or mail delivery services are used for the submission of bids. Mailing should be made in sufficient time for bids to arrive in the Purchasing Division, prior to the time and date specified above.

PROPOSAL SPECIFICATION NO. 04-010

BID OPENING TIME: 12:00 NOON

DATE: January 14, 2004

The undersigned bidder, having full knowledge of the requirements of the City of Lincoln for the below listed items and the contract documents (which include Notice to Bidders, Instructions to Bidders, this Proposal, Specifications, Contract, and any and all addenda) and all other conditions of the Proposal, agrees to lease and service to the City the below listed items for the performance of this Specification, complete in every respect, in strict accordance with the contract documents at and for unit prices listed below.

ADDENDA RECEIPT: The receipt of addenda to the specifications numbers ____ through ____ are hereby acknowledged. Failure of any bidder to receive any addendum or interpretation of the specifications shall not relieve the bidder from obligations specified in the bid request. all addenda shall become part of the final contract document.

LEASE OF GAS POWER MOTORIZED GOLF CARD AND UTILITY VEHICLES

BIDDING SCHEDULE

<u>ITEM</u>	<u>ITEM DESCRIPTION</u>	<u>QUANTITY</u>	<u>SEMI ANNUAL LEASE PAYMENT</u>	<u>TOTAL</u>
1.	GAS POWER MOTORIZED GOLF CARS			
	MFG. _____ MODEL _____			
	—	225 EA	\$ _____	\$ _____
1.1	48 Month Lease	225 EA		\$ _____
1.2	Option to increase Lease to 60 Months	225 EA	\$ _____	\$ _____
	Option to increase Lease to 72 Months		\$ _____	
2.	GAS POWER MOTORIZED UTILITY VEHICLE			
	MFG. _____ MODEL _____			
	—	14 EA	\$ _____	\$ _____
2.1	48 Month Lease	14 EA	\$ _____	\$ _____
2.2	Option to increase Lease to 60 Months	14 EA	\$ _____	\$ _____
	Option to increase Lease to 72 Months			
3.	FIRST PAYMENT DUE: _____, 2004			
4.	<u>DELIVERY SCHEDULE:</u> The City desires delivery not later than April 28, 2004.			
	Please state your earliest possible delivery date: _____, 2004.			

Bid Security in the Total Sum of \$5,000.00 must be submitted with your proposal as a guarantee of good faith

AFFIRMATIVE ACTION PROGRAM: Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16). The Equal Opportunity Officer will determine compliance or non-compliance with the City's policy upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

The undersigned signatory for the bidder represents and warrants that he has full and complete authority to submit this proposal to the City, and to enter into a contract if this proposal is accepted.

**RETURN 2 COMPLETE COPIES OF PROPOSAL AND SUPPORTING MATERIAL.
MARK OUTSIDE OF BID ENVELOPE: SEALED BID FOR SPEC. 04-010**

COMPANY NAME

BY (Signature)

STREET ADDRESS or P.O. BOX

(Print Name)

CITY, STATE ZIP CODE

(Title)

TELEPHONE No. FAX No.

(Date)

EMPLOYER'S FEDERAL I.D. NO.
OR SOCIAL SECURITY NUMBER

ESTIMATED DELIVERY DAYS

E-MAIL ADDRESS

TERMS OF PAYMENT

Bids may be inspected in the Purchasing Division offices during normal business hours, after tabulation by the purchasing agent. If you desire a copy of the bid tabulation to be mailed to you, you must enclose a self-addressed stamped envelope with your bidding documents. Bid tabulations can also be viewed on our website at: <http://www.ci.lincoln.ne.us/city/finance/purch/specindx.htm>

Specification No. 04-010
Gas Power Motorized Golf Cars
And
Gas Power Motorized Utility Vehicles

1.0 Project Information:

1.1 Purpose and Intent - The purpose of this solicitation is to establish a lease contract for the lease (without purchase option) of four-wheel gasoline golf cars and utility vehicles as described herein, in quantities and for the locations as indicated herein.

1.2	Number of Vehicles	
1.2.1	Gas powered golf cars	225
1.2.2	Gas powered utility vehicles	14

1.3	Locations	
1.3.1	Highlands Golf Course 5501 N.W. 12th Lincoln, NE 68521 60 golf cars 3 utility vehicles	
1.3.2	Holmes Golf Course 3701 South 70th Lincoln, NE 68506 55 golf cars 3 utility vehicles	
1.3.3	Mahoney Golf Course 7900 Adams Lincoln, NE 68507 55 golf cars 3 utility vehicles	
1.3.4	Pioneers Golf Course 3403 W. Van Dorn Lincoln, Ne 68522 55 golf cars 3 utility vehicles	
1.3.5	Jim Ager Junior Golf Course 3761 Normal Blvd. Lincoln, NE 68502 2 utility vehicles	

- 1.4 In order to accommodate an increased need for golf cars during special events, the successful contractor will stand ready to provide up to twenty-five golf cars with the same specifications and subject to the same service arrangement as otherwise set forth herein, with forty-eight hours notice, for lease on a daily basis for a cost proportionate to that of the cost of the other golf cars provided for in Contractor's proposal.

2.0 Performance Requirements:

- 2.1 All golf cars and utility vehicles provided under this lease are to be the newest models under current production that conform to the equipment specifications contained herein.

3.0 Full Service Maintenance:

- 3.1 The Lessor is responsible for all maintenance and repairs, including all labor, travel expenses, freight, materials, supplies and items necessary for the repairs, maintenance and operation of the cars (except gasoline) for the life of the contract.
- 3.2 Between December 1 and March 1, the Lessor will completely service each car to insure vehicle is in proper working order for upcoming golf season.
- 3.3 Lessor shall be responsible for providing competent and experienced service personnel.
- 3.4 Lessor will provide a detailed maintenance service record on each car to verify that service has been completed.
- 3.5 If Lessor cannot repair a car or vehicle at the golf course within twenty-four (24) hours, the car must be replaced by the Lessor with a loaner car or vehicle within twenty-four (24) hours.
- 3.6 Loaner cars shall be new or in like-new condition and similar to the leased cars.

4.0 Golf Car Specification:

- 4.1 Four (4) wheel model, with tops and with standard industry safety features.
- 4.2 Gasoline engine (unleaded certified) 4-cycle, air cooled, with serviceable air filter, oil filter/screen, solid state ignition, 12-volt self-contained electrical system.
- 4.3 Automatic synchromesh transmission or springless centrifugal clutch transmission with forward, neutral, reverse and reverse warning horn.

- 4.4 Minimum 6, maximum 7.5 gallon fuel tank with fuel gauge or other readily visible fuel reading.
- 4.5 Twelve (12) to fourteen (14) MPH governed speed.
- 4.6 Fifty (50%) percent hill climbing ability.
- 4.7 Steel or aluminum frame.
- 4.8 Polypropylene/fiberglass/steel body, complete with matching comparable material sun tops; complete with ball, golf "T" and beverage holders, sweater basket, floor mats, body side perimeter protection, front and rear bumper, fender guards, quick release bag strap buckles and ball and club washer.
- 4.9 Two-place seamless tear-resistant vinyl bench or bucket seat(s) with side-by-side safety rails.
- 4.10 Self-adjusting drum-type rear wheel self-adjusting brakes with automatic release.
- 4.11 Tires - 18 x 8.50 x 8, 4-ply rated.
- 4.12 One-piece snap-on windshields, tinted high impact acrylic - 80 cars.
- 4.13 Leaf/coil spring suspension with shocks for each wheel, minimum rated load capacity 700 pounds.
- 4.14 Maximum 19.5 feet turning diameter.
- 4.15 Wheel base 60-66 inches.
- 4.16 Automotive type steering wheel with score card and pencil holder.
- 4.17 Acceptable brands, when in accordance with above specifications:
Club Car, E-Z-Go, Yamaha
- 4.18 Literature, owner's manual, information, etc. must be submitted with bidding documents for agency evaluation.

5.0 Utility Vehicle Specification:

- 5.1 Four (4) wheel model with standard industry safety features.
- 5.2 Gasoline engine (unleaded certified) 4-cycle, air cooled, with serviceable air filter, oil filter/screen. Solid state ignition, 12-volt self-contained electrical system.

- 5.3 Automatic synchromesh transmission, or springless centrifugal clutch transmission with forward, neutral, reverse and reverse warning horn.
- 5.4 Minimum 6, maximum 7.5 gallon fuel tank with fuel gauge or other readily visible fuel reading.
- 5.5 Fourteen (14) to twenty (20) MPH governed speed.
- 5.6 Steel or aluminum frame.
- 5.7 Impact-resistant molded polymer/ABS/DR Acrylic front body and aluminum cargo bed.
- 5.8 Tubular steel or aluminum frame.
- 5.9 Two-seat bench or bucket seats with side safety handle. Seats will be seamless tear-resistant vinyl.
- 5.10 Self-adjusting drum type rear wheel self-adjusting brakes with automatic release.
- 5.11 Tires: 18 x 8.50 x 8, 4-ply rated, turf tread.
- 5.12 Leaf/coil spring suspension with shocks for each wheel, minimum rated load capacity 500-1200 pounds.
- 5.13 Wheel base: 74-80 inches.
- 5.14 Acceptable brands, when in accordance with above specifications:
Club Car, E-Z-Go, Yamaha.
- 5.15 Literature, owner's manual, information, etc. must be submitted with the bidding documents for agency evaluation.

6.0 Evaluation Criteria

- 6.1 General statements of qualifications on bidder's own letterhead, to include the following:
 - 6.1.1 Year established and former names.
 - 6.1.2 Location of service/maintenance center that will handle this account and number of service technicians/mechanics that will be available to service this account.
 - 6.1.3 Names of principals.

6.1.4 Names of key personnel, years of experience each and length of service with the company.

6.1.5 List of references for similar lease agreements: include agency name, address, phone number and contact person.

6.2 Selection Committee

6.2.1 This committee will be comprised of Lincoln Parks and Recreation staff, City Purchasing staff and City Law Department.

6.2.2 Contacts regarding the development of proposal shall be made with Selection Committee Chair Steve Hiller, Superintendent of Administration, Lincoln Parks and Recreation Department, (402)441-8266.

6.2.3 Any addenda answering questions or providing clarifications will be issued by the City's Purchasing Division.

6.2.4 The term of the lease will be 48 months.

6.2.4.1 Options to increase the term to either 60 months or to 72 months will also be entertained.

7.0 See attached sample Master Lease Agreement.

INSTRUCTIONS TO BIDDERS

CITY OF LINCOLN, NEBRASKA PURCHASING DIVISION

1. BIDDING PROCEDURE

- 1.1 Bidder shall submit two (2) complete sets of the bid documents and all supporting material. All appropriate blanks shall be completed. Any interlineation, alteration or erasure on the specification document shall be initialed by the signer of the bid. Bidder shall not change the proposal form nor make additional stipulations on the specification document. Any amplified or qualifying information shall be on the bidder's letterhead and firmly attached to the specification document.
- 1.2 Bid prices shall be submitted on the Proposal Form included in the bid document.
- 1.3 Bidders may submit a bid on an "all or none" or "lump sum" basis, but should also submit a quotation on an item-by-item basis. Bidding documents shall be clearly marked indicating the kind of proposal being submitted.
- 1.4 Each bid must be legibly printed in ink or by typewriter, include the full name, business address, and telephone number of the bidder; and be signed in ink by the bidder.
- 1.5 A bid by a firm or organization other than a corporation must include the name and address of each member.
- 1.6 A bid by a corporation must be signed in the name of such corporation by a duly authorized official thereof.
- 1.7 Any person signing a bid for a firm, corporation, or other organization must show evidence of his authority so to bind such firm, corporation, or organization.
- 1.8 Bids received after the time and date established for receiving bids will be rejected.

2. BIDDER'S SECURITY

- 2.1 Bid security, as a guarantee of good faith, in the form of a certified check, cashier's check, or bidder's bond, may be required to be submitted with this bid document, as indicated of the Proposal Form.
- 2.2 If alternate bids are submitted, only one bid security will be required, provided the bid security is based on the amount of the highest gross bid.
- 2.3 Such bid security will be returned to the unsuccessful bidders when the award of bid is made.
- 2.4 Bid security will be returned to the successful bidder(s) as follows:
 - 2.4.1 For single order bids with specified quantities: upon the delivery of all equipment or merchandise, and upon final acceptance by the City.
 - 2.4.2 For all other contracts: upon approval by the City of the executed contract and bonds.
- 2.5 City shall have the right to retain the bid security of bidders to whom an award is being considered until either:
 - 2.5.1 A contract has been executed and bonds have been furnished.
 - 2.5.2 The specified time has elapsed so that the bids may be withdrawn.
 - 2.5.3 All bids have been rejected.

- 2.6 Bid security will be forfeited to the City as full liquidated damages, but not as a penalty, for any of the following reasons, as pertains to this specification document:

- 2.6.1 If the bidder fails to deliver the equipment or merchandise in full compliance with the accepted proposal and specifications.
- 2.6.2 If the bidder fails or refuses to enter into a contract on forms provided by the City, and/or if the bidder fails to provide sufficient bonds or insurance within the time period as established in this specification document.

3. EQUAL OPPORTUNITY

- 3.1 Each bidder agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, age, or marital status. Bidder shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code.
- 3.2 Successful bidder will be required to comply with the provisions of the City's Affirmative Action Policy (Contract Compliance, Sec. 1.16).
- 3.3 The Equal Opportunity Officer will determine compliance or non-compliance with the City's Affirmative Action Policy upon a complete and substantial review of successful bidder's equal opportunity policies, procedures and practices.

4. DATA PRIVACY

- 4.1 Bidder agrees to abide by all applicable State and Federal laws and regulations concerning the handling and disclosure of private and confidential information concerning individuals and corporations as to inventions, copyrights, patents and patent rights.
- 4.2 The bidder agrees to hold the City harmless from any claims resulting from the bidder's unlawful disclosure or use of private or confidential information.

5. BIDDER'S REPRESENTATION

- 5.1 Each bidder by signing and submitting a bid, represents that the bidder has read and understands the specification documents, and the bid has been made in accordance therewith.
- 5.2 Each bidder for services further represents that the bidder is familiar with the local conditions under which the work is to be done and has correlated the observations with the requirements of the bid documents.

6. INDEPENDENT PRICE DETERMINATION

- 6.1 By signing and submitting this bid, the bidder certifies that the prices in this bid have been arrived at independently, without consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder prior to bid opening directly or indirectly to any other bidder or to any competitor; no attempt has been made, or will be made, by the bidder to induce any person or firm to submit, or not to submit, a bid for the purpose of restricting competition.

7. CLARIFICATION OF SPECIFICATION DOCUMENTS

- 7.1 Bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency or error which they may discover upon examination of the specification documents.
- 7.2 Bidders desiring clarification or interpretation of the specification documents shall make a written request which must reach the Purchasing Agent at least seven (7) calendar days prior to the date and time for receipt of bids.
- 7.3 Interpretations, corrections and changes made to the specification documents will be made by written addenda.
- 7.4 Oral interpretations or changes to the Specification Documents made in any other manner, will not be binding on the City; and bidders shall not rely upon such interpretations or changes.

8. ADDENDA

- 8.1 Addenda are written instruments issued by the City prior to the date for receipt of bids which modify or interpret the specification document by addition, deletion, clarification or correction.
- 8.2 Addenda will be mailed or delivered to all who are known by the City to have received a complete set of specification documents.
- 8.3 Copies of addenda will be made available for inspection at the office of the Purchasing Agent.
- 8.4 No addendum will be issued later than forty-eight (48) hours prior to the date and time for receipt of bids, except an addendum withdrawing the invitation to bid, or an addendum which includes postponement of the bid.
- 8.5 Bidders shall ascertain prior to submitting their bid that they have received all addenda issued, and they shall acknowledge receipt of addenda on the proposal form.

9. ANTI-LOBBYING PROVISION

- 9.1 During the period between the bid close date and the contract award, bidders, including their agents and representatives, shall not directly discuss or promote their bid with any member of the City Council or City Staff except in the course of City-sponsored inquiries, briefings, interviews, or presentations, unless requested by the City.

10. BRAND NAMES

- 10.1 Wherever in the specifications or proposal form brand names, manufacturer, trade name, or catalog numbers are specified, it is for the purpose of establishing a grade or quality of material only; and the term "or equal" is deemed to follow.
- 10.2 It is the bidder's responsibility to identify any alternate items offered in the bid, and prove to the satisfaction of the City that said item is equal to, or better than, the product specified.
- 10.3 Bids for alternate items shall be stated in the appropriate brand on the proposal form, or if the proposal form does not contain blanks for alternates, bidder MUST attach to the specification documents on Company letterhead a statement identifying the manufacturer and brand name of each proposed alternate, plus a complete description of the alternate items including illustrations, performance test data and any other information necessary for an evaluation. The bidder must indicate any variances by item number from the specification document no matter how slight. Bidder must fully explain the variances from the specification document, since brochure information may not be sufficient.

- 10.4 If variations are not stated in the proposal, it will be assumed that the item being bid fully complies with the City's specifications.

11. DEMONSTRATIONS/SAMPLES

- 11.1 Bidders shall demonstrate the exact item(s) proposed within seven (7) calendar days from receipt of such request from the City.
- 11.2 Such demonstration can be at the City delivery location or a surrounding community.
- 11.3 If bidder does not have an item in the area, it will be at the bidder's expense to send appropriate City personnel to the nearest location to view and inspect proposed item(s).
- 11.4 If items are small and malleable, and the bidder is proposing an alternate product, the bidder MUST supply a sample of the exact item. Samples will be returned at bidder's expense after receipt by the City of acceptable goods. Bidders must indicate how samples are to be returned.

12. DELIVERY

- 12.1 Each bidder shall state on his proposal form the date upon which he can make delivery of all equipment or merchandise. Time required for delivery is hereby made an essential element of the bid.
- 12.2 The City reserves the right to cancel orders, or any part thereof, without obligation, if delivery is not made within the time(s) specified on the proposal form.
- 12.3 All bids shall be based upon **inside** delivery of the equipment or merchandise F.O.B. the City at the location specified by the City, with all transportation charges paid.

13. WARRANTIES, GUARANTEES AND MAINTENANCE

- 13.1 Copies of the following documents must accompany the bid proposal for all items being bid:
 - 13.1.1 Manufacturer's warranties and/or guarantees.
 - 13.1.2 Bidder's maintenance policies and associated costs.
- 13.2 As a minimum requirement of the City, the bidder will guarantee in writing that any defective components discovered within a one (1) year period after the date of acceptance shall be replaced at no expense to the City. Replacement parts of defective components shall be shipped at no cost to the City. Shipping costs for defective parts required to be returned to the bidder shall be paid by the bidder.
- 13.3 Bidder Warrants and represents to the City that all software/firmware/ hardware/equipment /systems developed, distributed, installed or programmed by Bidder pursuant to this Specification and Agreement.
 - 13.3.1 That all date recognition and processing by the software/firmware/hardware/equipment/system will include the four-digit-year format and will correctly recognize and process the date of February 29, and any related data, during Leap years; and
 - 13.3.2 That all date sorting by the software /firmware/hardware/ equipment/system that includes a "year category" shall be done based on the four-digit-year format. Upon being notified in writing by the City of the failure of any software/ firmware/ hardware /equipment /systems to comply with this Specification and Agreement, Contractor will, within 60 days and at no cost to the City, replace or correct the non-

complying software/ firmware/ hardware/ equipment/ systems with software/firmware/ hardware/equipment/ systems that does comply with this Specification and Agreement.

- 13.3.3 No Disclaimers: The warranties and representations set forth in this section 13.3 shall not be subject to any disclaimer or exclusion of warranties or to any limitations of Licensor's liability under this Specification and Agreement.

14. ACCEPTANCE OF MATERIAL

- 14.1 All components used in the manufacture or construction of materials, supplies and equipment, and all finished materials, shall be new, the latest make/model, of the best quality, and the highest grade workmanship.
- 14.2 Material delivered under this proposal shall remain the property of the bidder until:
- 14.2.1 A physical inspection and actual usage of this material is made and found to be acceptable to the City; and
- 14.2.2 Material is determined to be in full compliance with the specifications and accepted proposal.
- 14.3 In the event the delivered material is found to be defective or does not conform to the specification documents and accepted proposal, then the City reserves the right to cancel the order upon written notice to the bidder and return materials to the bidder at bidder's expense.
- 14.4 Successful bidder shall be required to furnish title to the material, free and clear of all liens and encumbrances, issued in the name of the City of Lincoln, Nebraska, as required by the specification documents or purchase orders.
- 14.5 Selling dealer's advertising decals, stickers or other signs shall not be affixed to equipment. Vehicle mud flaps shall be installed blank side out with no advertisements. Manufacturer's standard production forgings, stampings, nameplates and logos are acceptable.

15. BID EVALUATION AND AWARD

- 15.1 The signed bid proposal shall be considered an offer on the part of the bidder. Such offer shall be deemed accepted upon issuance by the City of purchase orders, contract award notifications, or other contract documents appropriate to the work.
- 15.2 No bid shall be modified or withdrawn for a period of sixty (60) calendar days after the time and date established for receiving bids, and each bidder so agrees in submitting the bid.
- 15.3 In case of a discrepancy between the unit prices and their extensions, the unit prices shall govern.
- 15.4 The bid will be awarded to the lowest responsive, responsible bidder whose proposal will be most advantageous to the City, and as the City deems will best serve their requirements.
- 15.5 The City reserves the right to accept or reject any or all bids; to request rebids; to award bids item-by-item, by groups, or "lump sum"; to waive irregularities and technicalities in bids; such as shall best serve the requirements and interests of the City.

16. INDEMNIFICATION

- 16.1 The bidder shall indemnify and hold harmless the City, its members, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to attorney's fees arising out of or resulting from the performance of the contract, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property other than goods, materials and equipment furnished under this contract) including the loss or use resulting therefrom; is caused in whole or part by any negligent act or omission of the bidder, any subcontractor, or anyone directly or indirectly employed by any one of them or anyone for whose acts made by any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.
- 16.2 In any and all claims against the City or any of its members, officers or employees by an employee of the bidder, any subcontractor, anyone directly or indirectly employed by any of them or by anyone for whose acts made by any of them may be liable, the indemnification obligation under paragraph 16.1 shall not be limited in any way by any limitation of the amount or type of damages, compensation or benefits payable by or for the bidder or any subcontractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

17. TERMS OF PAYMENT

- 17.1 Unless other specification provisions state otherwise, payment in full will be made by the City within thirty (30) calendar days after all labor has been performed and all equipment or other merchandise has been delivered, and all such labor and equipment and other materials have met all contract specifications.

18. LAWS

- 18.1 The Laws of the State of Nebraska shall govern the rights, obligations, and remedies of the Parties under this proposal and any agreement reached as a result of this process.

SAMPLE LEASE AGREEMENT

Gas Powered Motorized Golf Cars And Gas Powered Motorized Utility Vehicles

This Agreement is entered into by and between the City of Lincoln, Nebraska, hereinafter referred to as "City" and _____, hereinafter referred to as "Lessor".

1. PROVISION OF EQUIPMENT. Lessor shall provide to the City Parks and Recreation Golf Division 225 motorized golf cars and 14 utility vehicles in accordance with Specification No. 04-010 and Lessor's proposal which are attached hereto and made a part hereof. In the event of conflict between the provisions of this agreement, the specifications, and the Lessor's proposal, the order of precedence shall be as follows: this agreement (including attachments and exhibits), the specifications, the Lessor's proposal.
2. DELIVERY. Lessor shall deliver the equipment at City of Lincoln, Nebraska's designated locations upon request and mutual agreement, throughout the four (4) year term of the lease. All delivery shall be at no cost to the City. The Superintendent of Administration of Lincoln Parks and Recreation Department shall be responsible for authorizing in writing all requested deliveries.
3. TERM. The term of this agreement shall commence on the date of ratification by the City (on or about April 1, 2004, and continue for a period of **XX months**; provided, however, the City may terminate this agreement upon providing to the Lessor written notification of termination specifying that funds will not be appropriated for continued lease of the equipment.
 - 3.1 Such notification must be sent to Lessor at least 30 days prior to the proposed date of termination.
 - 3.2 Upon expiration of the term of this agreement Lessor shall remove the equipment from City property, along with any of Lessor's supplies, at no cost to the City.
4. COMPENSATION. The City shall make semi-annual payments to the Lessor in the amount of \$_____ per vehicle according to the schedule set forth in Lessor's proposal, attached.
 - 4.1 This charge includes and covers all required service, maintenance and supplies excluding fuel, oil and minor preventative maintenance as may be agreed upon by the parties.

5. TAXES. All taxes, including sales, use and property taxes associated with this Agreement, shall be paid by the Lessor and shall not be the responsibility of the City.
6. TITLE TO EQUIPMENT. Title to the equipment shall remain with the Lessors at all times and the City shall have no right, title, or interest therein except as expressly set forth in this Agreement.
 - 6.1 Risk of loss, except loss resulting from negligent operation by the City, its employees, or golf patrons shall be assumed by the Lessor.
7. CITY'S RESPONSIBILITIES. The City agrees to:
 - 7.1 Provide a delivery site at each of the five designated locations;
 - 7.2 With City's approval, permit Lessor's field maintenance staff to enter its premises at all reasonable times to service the equipment;
 - 7.3 Provide suitable space for Lessor's field maintenance staff to service the equipment;
 - 7.4 Provide suitable space for storage of a minimum stock of preventative maintenance supplies at each of the five sites;
 - 7.5 Provide a designated key operator at each of the five sites for training in the use of the equipment and, in the event of personnel turnover, notify Lessor immediately for training of a new key operator;
 - 7.6 Provide minor preventative maintenance for the equipment as may be agreed upon by the parties.
 - 7.7 Upon expiration or termination of this agreement, permit Lessor to remove the equipment.
8. ADD, DELETE AND RELOCATION OF EQUIPMENT. The Superintendent of Administration of Lincoln Parks and Recreation shall coordinate with the Lessor to determine the quantity of vehicles to be delivered and maintained at each site, their placement and movement, relocation, addition and deletion of equipment and supplies.
9. SERVICING OF EQUIPMENT. Lessor warrants the equipment provided under this agreement will be maintained in proper functioning order during the term of this agreement. Lessor makes no other warranties, express or implied, or of merchantability for this equipment.
 - 9.1 If this equipment does not function properly during the contract term, it shall be repaired or replaced without charge to the City within 24 hours of notification.

- 9.2 Equipment which requires excessive service calls shall be replaced by the Lessor instead of being repaired, excessive being measured by the industry standard.
- 9.3 Contractor is responsible for all maintenance and repair/replacement services of the equipment, without charge to the City, except those services City may specifically agree to assume.
 - 9.3.1 At its own cost and expense, Lessor will provide all necessary maintenance parts and supplies unless otherwise specifically agreed by the parties.
- 9.4 During normal working hours, a customer equipment service representative of the Lessor will, at the City's request, provide equipment repair service on the City's premises.
 - 9.4.1 The request for repairs shall be acknowledged by the Lessor within eight (8) hours after request is made by the City.
 - 9.4.2 For purposes of this agreement, normal working hours shall mean 7:00 a.m. to 3:00 p.m., seven days per week.
 - 9.4.3 The City agrees to make the equipment immediately available for scheduled maintenance and repair.
- 9.5 In the event that any repair or servicing requires removal of the equipment from the City's premises for a period of more than 24 hours, Lessor agrees to provide, at no cost to the City, replacement equipment equal to the equipment being provided under this agreement, to deliver the same, and to maintain the same, until such time as the equipment provided under this agreement is repaired or serviced and returned.

10. DEFAULT.

- 10.1 If the City fails to pay any invoice within 60 days after receipt thereof or if the City fails to perform any of its other obligations under this agreement, or if the City attempts to sell, transfer or encumber the equipment provided hereunder, the Lessor, in addition to any other remedies that may be legally available to it, at its option, may terminate this agreement and immediately repossess all items of equipment.
 - 10.1.1 On termination for City's default, the City shall permit the Lessor's representative to enter its premises to remove the equipment and shall pay all outstanding invoices and the full amount owed at the time of termination for actual services rendered.

10.2 If the Lessor fails to perform its obligations under this agreement, the City may, in addition to any other remedies legally available to it, do any one or more of the following:

10.2.1 In the event that Lessor fails to properly service or maintain or repair the equipment, the City may obtain maintenance servicing or repairs from another factory trained source and deduct the cost thereof from future invoices; or

10.2.2 In the event that Lessor fails to provide additions, deletions or replacement equipment when required within the terms of this agreement and specification, the City may obtain substantially equal equipment from another source and charge the Lessor the cost of obtaining such replacement equipment over and above the amount such services and equipment would have cost the City under this agreement if the Lessor had not defaulted; or

10.2.3 The City may, at its option, terminate this agreement upon five days written notice to the Lessor, in which event Lessor shall immediately remove its equipment from the premises of the City.

10.3 Repeated failure on the part of the Lessor to provide repairs in a timely fashion or to provide supplies shall entitle the City to immediately terminate this agreement upon five days written notice to the Lessor advising it of such termination.

11. INDEMNIFICATION. The Lessor shall indemnify and hold harmless the City, its officers, agents, and employees from and against all claims, damages, losses, and expenses, including but not limited to, attorney fees arising out of or resulting from performance of this agreement, the results and any claims for damages whatsoever, including, without limitation, bodily injury, death, or any injury or destruction of tangible or intangible property including any loss of use resulting therefrom that is caused in whole or in part by Lessor or anyone directly or indirectly employed by Lessor.

11.1 This section shall not require Lessor to indemnify or hold harmless the City for any losses, claims, damages, or expenses arising out of or resulting from the sole negligence of the City, its employees, or golf patrons.

12. FAIR EMPLOYMENT PRACTICES. In the performance of this agreement, the Lessor shall not discriminate against any employee (or applicant for employment) with respect to compensation, terms, advancement potential, conditions, or privileges or employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status, pursuant to the requirements of Chapter 11.08 of the Lincoln Municipal Code and Neb. Rev. Stat. § 48-1122 (reissue 1998).

13. INTEGRATION. This agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this agreement.
14. AMENDMENT. This agreement may be amended or modified only in writing signed by both the City and the Lessor.
15. GOVERNING LAW. This agreement will be interpreted and governed in accordance with the Laws of the State of Nebraska.
16. NON-ASSIGNABILITY. Lessor may not assign this lease or service agreement or subcontract any portion thereof without the prior written consent of the City. Notwithstanding any assignment or subcontracting, Lessor shall continue to be obligated for the performance of the terms of this
17. NO REMEDY EXCLUSIVE. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.
18. NOTICES. Any notice required or permitted to be sent by this agreement shall be sent to the following individuals at the following addresses unless the party to whom notice is to be sent advises the other party of a change:

to the City of Lincoln

to the Lessor

IN WITNESS WHEREOF the City and the Lessor have executed this agreement as of the day and year first written above.

EXECUTION BY CITY OF LINCOLN, NEBRASKA

ATTEST:

City of Lincoln, NEBRASKA

City of Lincoln Clerk

Mayor

EXECUTION BY Lessor

ATTEST:

Company Name

By:

(Seal)

Secretary

Duly Authorized Official (Signature)

Legal Title of Official